

E2SSB 5735 - H AMD

By Representative Upthegrove

ADOPTED AND ENGROSSED 4/14/09

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS. The legislature finds that Washington should maintain its leadership on climate change by continuing Washington's participation in the development of any federal or regional programs to reduce greenhouse gas emissions.

The legislature finds that by continuing its participation in the development of federal and regional programs to reduce greenhouse gas emissions, Washington maximizes its ability to influence and shape those programs so that they may reflect Washington's emissions portfolio, including the state's hydroelectric system, aid Washington's forest resources and agricultural industries, reduce Washington's expenditures on imported fuels, and create a strong economy.

The legislature further finds that by continuing Washington's participation in the development of federal and regional programs to reduce greenhouse gas emissions, Washington has the opportunity to protect Washington families and small businesses from undue financial impacts arising from the transition to a clean energy future, to protect Washington's economy from disadvantages resulting from competition with industries that do not participate in carbon control efforts, and provide appropriate credit for those businesses that have taken early actions to reduce greenhouse gas emissions.

The legislature further finds that well-designed climate policies should mitigate any impacts on the cost and affordability of food, housing, energy, transportation, and other routine expenses on low and moderate-income people, and ensure that economic benefits are available to both urban and rural communities, and to traditionally underserved communities.

The legislature further finds the continued efforts to reduce greenhouse gases in the transportation sector through the continued

1 development of alternative fuels, improved vehicle technologies, and
2 providing choices that reduce overall vehicle miles traveled to be
3 critical steps in creating jobs, fostering economic growth, and
4 reducing our reliance on foreign petroleum-based transportation fuels.

5 NEW__SECTION. **Sec. 2.** NATIONAL AND REGIONAL GREENHOUSE GAS
6 REDUCTION PROGRAMS. (1) The office of the governor and the department
7 are directed to represent the state's interests in the development of
8 a national program to reduce greenhouse gas emissions. As part of this
9 effort, the department is directed to continue to participate in the
10 western climate initiative to develop a regional program to reduce
11 greenhouse gas emissions. This regional program must be used to
12 influence the national program to reduce greenhouse gas emissions.

13 (2) In order to provide needed information to the legislature,
14 government agencies, and those persons who are responsible for
15 significant emissions of greenhouse gases so that they may effectively
16 plan for the long-term emissions reductions under RCW 70.235.020, the
17 department shall develop:

18 (a) Its best estimate of emissions levels in 2012 for persons that
19 the department reasonably believes are responsible for the emission of
20 twenty-five thousand metric tons of carbon dioxide equivalent or
21 greater each year; and

22 (b) The trajectory of emissions reductions necessary to meet the
23 2020 requirement of reducing the state's greenhouse gas emissions to
24 1990 levels.

25 (3) The department shall develop the estimated 2012 emissions
26 levels and the 2020 reduction trajectories in consultation with
27 business and other interested stakeholders by February 15, 2010. The
28 reduction trajectories must reflect the department's best estimate of
29 each person's proportionate share of the 2020 reductions.

30 (4) The department shall provide each person with its estimate of
31 the person's 2012 emissions levels and the 2020 reduction trajectory as
32 soon as they are available, but no later than February 15, 2010. Each
33 person or groups of persons representing a sector of Washington's
34 economy may recommend strategies or actions to the department that they
35 believe would achieve the needed reductions. The recommendations must
36 be provided to the department by July 15, 2010.

(5) The department shall provide a report to the legislature by December 31, 2010, that includes the 2012 emissions estimates, the 2020 reduction trajectories, and the strategies and actions, including complementary policies that collectively will achieve the state's 2020 emissions reduction in RCW 70.235.020. The 2020 reduction trajectories must consider each person's use of industry best practices and of fuels that are either carbon neutral or that do not emit greenhouse gases. Consideration may be given to industries whose processes are inherently energy intensive. The report must include a description of any additional authority that is needed to implement the identified strategies or actions. The report must also include an assessment of the state's emission sources and sectors where emissions reductions cannot be realized and the sources or sectors are necessary to ensure the economic viability of the state.

(6) For purposes of this section, emissions of carbon dioxide from industrial combustion of biomass in the form of fuel wood, wood waste, wood byproducts, including pulping liquor, and wood residuals may not be considered a greenhouse gas as long as the region's silvicultural sequestration capacity is maintained or increased.

NEW __ SECTION. **Sec. 3. ACCOUNTABILITY.** The governor shall designate an existing full-time equivalent position as the single point of accountability for all energy and climate change initiatives within state agencies. All agencies, councils, or work groups with energy or climate change initiatives must coordinate with this designee. This position must be funded from current full-time equivalent allocations without increasing budgets. If duties must be shifted in the agency, they must be shifted to current full-time equivalent allocations.

NEW SECTION. **Sec. 4. STATE OFFSET POLICIES.** (1) The state shall begin to develop policy criteria for offset projects that will recognize the role of forestry and agriculture in sequestering and storing carbon dioxide. These policy criteria may only be implemented in the context of a national or regional climate change program that establishes an enforceable cap on emissions of greenhouse gases. The final policy recommendations required under this section must be submitted to the legislature by December 31, 2010.

(2) The department shall develop state policies for:

1 (a) Forestry offset projects within Washington in consultation with
2 the department of natural resources and the forest carbon working
3 group; and

4 (b) Agriculture offset projects in consultation with Washington
5 State University, the department of agriculture, and the agriculture
6 carbon working group.

7 (3) In developing the forestry offset project policy under
8 subsection (2)(a) of this section, the agencies and the forest carbon
9 working group shall use the 2008 report of the forest carbon working
10 group as the starting point and should consider:

11 (a) Specific standards and guidelines that will support carbon
12 accounting in managed forests participating in an offset program;

13 (b) Recognition of management activities that increase carbon
14 stocks including, but not limited to, thinning, lengthening rotations,
15 increased retention of trees after harvest, fertilization, genetics,
16 timber stand improvement, fire management, and specific site class and
17 productivity of a managed forest;

18 (c) Specific standards and guidelines to support wood products
19 accounting, recognizing that carbon is stored in products after trees
20 are harvested, including the use of the one hundred year method which
21 estimates the amount of carbon stored in the wood products that are
22 projected to remain in use after one hundred years;

23 (d) Guidelines on how transfer of development right projects and
24 other land use and urban forestry techniques that reduce the loss of
25 forests may be used to create forestry offset projects;

26 (e) Guidelines on how forestry offset projects and forestry
27 financial incentive programs can work together so that Washington's
28 forest landowners will not be disadvantaged in comparison to other
29 jurisdictions participating in a national or regional cap and trade
30 program;

31 (f) How to verify or certify carbon stocks in a manner that will
32 not be administratively burdensome; and

33 (g) Specific standards for how landowners that are no longer able
34 or willing to meet their offset obligations may opt out of the program.
35 Such a mechanism must require the landowner to procure other allowances
36 or offsets equal to the offsets issued under the management plan for
37 any offsets they have sold and surrender those offsets, and any unsold
38 offsets, to the state.

(4) In developing the agricultural offset project policy under subsection (2)(b) of this section, the agencies and the agriculture carbon working group should consider:

(a) A process and timeline to survey, catalog, and map Washington soils in a manner that describes the carbon soil sequestration level of the soils; and

(b) Activities that would increase carbon sequestration in soils and therefore potentially qualify as offset projects.

NEW SECTION. **Sec. 5.** FINANCIAL INCENTIVES FOR FORESTRY. The department of ecology, in consultation with the department of natural resources and the forest carbon working group, shall develop and deliver to the legislature by December 31, 2010, recommendations for financial incentives for forestry and forest products that will recognize and encourage forest land management and use of forest products that will maintain or increase carbon sequestration, including, but not limited to:

(1) Thinning, lengthening of rotations, increased retention of trees at harvest, fertilization, genetics, timber stand improvement, and fire management;

(2) Production of wood products while maintaining or increasing carbon stocks on the ground; and

(3) Retention of high carbon stocks where there is no obligation to retain such stocks.

NEW SECTION. **Sec. 6.** A new section is added to chapter 70.94 RCW to read as follows:

STANDARDS FOR COAL-FIRED POWER PLANTS. (1) This section only applies to coal-fired power plants within Washington that burn over one million tons of coal per year.

(2) Coal-fired power plants must meet the greenhouse gas emissions performance standards under RCW 80.80.040(1) by December 31, 2025.

(3) The state shall not require early or additional reductions of greenhouse gas emissions for coal-fired power plants except as may be required for these plants under a federal program or unless they become the subject of long-term financial commitments as provided in RCW 80.80.040(2).

1 (4) If a coal-fired power plant reduces its total annual greenhouse
2 gas emissions below the plant's baseline emissions before the effective
3 date of any future requirement to reduce emissions, including the
4 requirement in subsection (2) of this section, the state shall advocate
5 for appropriate early action credit under future climate change
6 programs that require reductions in greenhouse gas emissions from the
7 plants.

8 (5) For purposes of subsection (4) of this section, the baseline
9 emissions for a coal-fired power plant is the plant's total annual
10 emissions of greenhouse gases in calendar year 2005. The baseline
11 emissions established in this subsection does not set nor otherwise
12 create a precedent for establishing baseline emissions for any other
13 sector or person subject to any future requirement to reduce greenhouse
14 gas emissions.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 47.38 RCW
16 to read as follows:

17 ALTERNATIVE FUELS CORRIDOR PILOT. (1) As a necessary and desirable
18 step to encourage public and private investment in both electric
19 vehicle infrastructure and alternative fuel distribution
20 infrastructure, the legislature authorizes an alternative fuels
21 corridor pilot project capable of supporting electric vehicle charging
22 and battery exchange technologies, and providing alternative fuel
23 distribution sites.

24 (2) To the extent permitted under federal programs, rules, or law,
25 the department of transportation shall pursue partnership agreements
26 with other public and private entities for the use of land and
27 facilities along state routes and within interstate highway rights-of-
28 way for an alternative fuels corridor pilot project. The department of
29 transportation shall strive to have the partnership agreement in place
30 by June 30, 2010. At a minimum, the pilot project must:

31 (a) Limit renewable fuel and vehicle technology offerings to those
32 with a forecasted demand over the next fifteen years and approved by
33 the department of transportation;

34 (b) Ensure that a pilot project site does not compete with existing
35 retail businesses in the same geographic area for the provision of the
36 same refueling services, recharging technologies, or other retail
37 commercial activities;

1 (c) Provide existing truck stop operators and retail truck
2 refueling businesses with an absolute right of first refusal over the
3 offering of refueling and recharging services to class six trucks with
4 a maximum gross vehicle weight of twenty-six thousand pounds within the
5 same geographic area identified for a possible pilot project site;

6 (d) Reach agreement with the department of services for the blind
7 ensuring that any activities at host sites do not materially affect the
8 revenues forecasted from their vending operations at each site;

9 (e) Regulate the internal rate of return from the partnership,
10 including provisions to reduce or eliminate the level of state support
11 once the partnership attains economic self-sufficiency;

12 (f) Be limited to not more than five locations on state-owned land
13 within federal interstate rights-of-way or state highway rights-of-way
14 in Washington; and

15 (g) Be limited in duration to a term of years reasonably necessary
16 for the partnership to recover the cost of capital investments, plus
17 the regulated internal rate of return.

18 (3) The department of transportation is not responsible for
19 providing capital equipment or operating refueling or recharging
20 services. The department of transportation must provide periodic
21 status reports on the pilot project to the office of financial
22 management and the relevant standing committees of the legislature at
23 least every biennium.

24 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.19 RCW
25 to read as follows:

26 ELECTRIFICATION OF THE WEST COAST INTERSTATE. (1) The office of
27 the governor, in consultation with the department of community, trade,
28 and economic development, the department of ecology, the department of
29 general administration, the department of transportation, and
30 Washington State University, shall develop a project for the
31 electrification of the west coast interstate and associated
32 metropolitan centers.

33 (2) The project should be developed in collaboration with
34 representatives of Oregon and California, the federal government, and
35 the private sector, as appropriate.

36 (3) The state shall seek federal funds for purchasing electric
37 vehicles and the installation of public infrastructure for electric and

1 other high-efficiency, zero or low-carbon vehicles. The department of
2 ecology shall also seek funds to expand the network of truck stop
3 electrification facilities and port electrification facilities.

4 **Sec. 9.** RCW 47.80.030 and 2005 c 328 s 2 are each amended to read
5 as follows:

6 (1) Each regional transportation planning organization shall
7 develop in cooperation with the department of transportation, providers
8 of public transportation and high capacity transportation, ports, and
9 local governments within the region, adopt, and periodically update a
10 regional transportation plan that:

11 (a) Is based on a (~~least-cost~~) planning methodology that
12 identifies the most cost-effective facilities, services, and programs;

13 (b) Identifies existing or planned transportation facilities,
14 services, and programs, including but not limited to major roadways
15 including state highways and regional arterials, transit and
16 nonmotorized services and facilities, multimodal and intermodal
17 facilities, marine ports and airports, railroads, and noncapital
18 programs including transportation demand management that should
19 function as an integrated regional transportation system, giving
20 emphasis to those facilities, services, and programs that exhibit one
21 or more of the following characteristics:

22 (i) Crosses member county lines;

23 (ii) Is or will be used by a significant number of people who live
24 or work outside the county in which the facility, service, or project
25 is located;

26 (iii) Significant impacts are expected to be felt in more than one
27 county;

28 (iv) Potentially adverse impacts of the facility, service, program,
29 or project can be better avoided or mitigated through adherence to
30 regional policies;

31 (v) Transportation needs addressed by a project have been
32 identified by the regional transportation planning process and the
33 remedy is deemed to have regional significance; and

34 (vi) Provides for system continuity;

35 (c) Establishes level of service standards for state highways and
36 state ferry routes, with the exception of transportation facilities of
37 statewide significance as defined in RCW 47.06.140. These regionally

1 established level of service standards for state highways and state
2 ferries shall be developed jointly with the department of
3 transportation, to encourage consistency across jurisdictions. In
4 establishing level of service standards for state highways and state
5 ferries, consideration shall be given for the necessary balance between
6 providing for the free interjurisdictional movement of people and goods
7 and the needs of local commuters using state facilities;

8 (d) Includes a financial plan demonstrating how the regional
9 transportation plan can be implemented, indicating resources from
10 public and private sources that are reasonably expected to be made
11 available to carry out the plan, and recommending any innovative
12 financing techniques to finance needed facilities, services, and
13 programs;

14 (e) Assesses regional development patterns, capital investment and
15 other measures necessary to:

16 (i) Ensure the preservation of the existing regional transportation
17 system, including requirements for operational improvements,
18 resurfacing, restoration, and rehabilitation of existing and future
19 major roadways, as well as operations, maintenance, modernization, and
20 rehabilitation of existing and future transit, railroad systems and
21 corridors, and nonmotorized facilities; and

22 (ii) Make the most efficient use of existing transportation
23 facilities to relieve vehicular congestion and maximize the mobility of
24 people and goods;

25 (f) Sets forth a proposed regional transportation approach,
26 including capital investments, service improvements, programs, and
27 transportation demand management measures to guide the development of
28 the integrated, multimodal regional transportation system. For
29 regional growth centers, the approach must address transportation
30 concurrency strategies required under RCW 36.70A.070 and include a
31 measurement of vehicle level of service for off-peak periods and total
32 multimodal capacity for peak periods; and

33 (g) Where appropriate, sets forth the relationship of high capacity
34 transportation providers and other public transit providers with regard
35 to responsibility for, and the coordination between, services and
36 facilities.

37 (2) Beginning December 1, 2011, regional transportation planning
38 organizations that encompass at least one county planning under RCW

1 36.70A.040 with a population greater than two hundred forty-five
2 thousand must adopt a regional transportation plan that, when
3 implemented, reduces greenhouse gas emissions, including achieving the
4 benchmarks under RCW 47.01.440 to reduce annual per capita vehicle
5 miles traveled in those counties. In the case of a county with a
6 population greater than two hundred forty-five thousand that is a
7 member of more than one regional transportation planning organization,
8 the regional transportation planning organization with the larger
9 overall population must carry out the requirements of this subsection.

10 (3) The organization shall review the regional transportation plan
11 biennially for currency and forward the adopted plan along with
12 documentation of the biennial review to the state department of
13 transportation.

14 ~~((+3+))~~ (4) All transportation projects, programs, and
15 transportation demand management measures within the region that have
16 an impact upon regional facilities or services must be consistent with
17 the plan and with the adopted regional growth and transportation
18 strategies.

19 (5)(a) The department of ecology, in cooperation with the
20 Washington department of transportation, shall convene a stakeholder
21 group comprised of legislators from the largest two caucuses of both
22 houses of the legislature, cities, counties, regional transportation
23 planning organizations, business, and environmental representatives for
24 the purposes of continuing the work of the transportation
25 implementation working group in developing alternatives necessary to
26 meet the overall state greenhouse gas emissions reductions established
27 in RCW 70.235.020 from the transportation sector.

28 (b) The members of the legislature serving on the stakeholder group
29 in (a) of this subsection shall be appointed by the speaker of the
30 house of representatives and the president of the senate.

31 (6) The Washington department of transportation shall report to the
32 legislature by September 30, 2010, with findings on recent trends in
33 levels of vehicle miles traveled statewide and projections of future
34 trends; what additional strategies should be considered in reducing
35 emissions from the transportation sector, including policies that will
36 reduce vehicle miles traveled, including strategies to address low and
37 no-emission vehicles; and determination of the probable environmental

1 and economic costs and benefits to the state and its citizens from the
2 reduction of vehicle miles traveled in implementation of policies
3 designed to meet the goals of RCW 47.01.440.

4 **Sec. 10.** RCW 43.19.648 and 2007 c 348 s 202 are each amended to
5 read as follows:

6 (1) (~~Effective~~) By June 1, 2015, all state agencies and local
7 government subdivisions of the state, to the extent determined
8 practicable by the rules adopted by the department of community, trade,
9 and economic development pursuant to RCW 43.325.080, are required to
10 satisfy one hundred percent of their fuel usage for operating publicly
11 owned vessels, vehicles, and construction equipment from electricity or
12 biofuel.

13 (2) The department of general administration is directed to work
14 with California, Oregon, other states, federal agencies, local
15 governments, and private fleet owners to encourage aggregate purchasing
16 of electric vehicles to the maximum extent possible.

17 (3) Except for cars owned or operated by the Washington state
18 patrol, when tires on vehicles in the state's motor vehicle fleet are
19 replaced, they must be replaced with tires that have the same or better
20 rolling resistance as the original tires.

21 NEW SECTION. **Sec. 11.** TRIBAL GOVERNMENTS. (1) The department
22 must consult with tribal governments upon request on elements of the
23 state's climate change program that may impact tribal governments, such
24 as their voluntary development of offset projects.

25 (2) Nothing in this section is intended to expand state authority
26 over Indian country as that term is defined in 18 U.S.C. Sec. 1151.

27 NEW SECTION. **Sec. 12.** Captions used in this act are not any part
28 of the law.

29 NEW SECTION. **Sec. 13.** Sections 1 through 4 and 11 of this act are
30 each added to chapter 70.235 RCW.

31 NEW SECTION. **Sec. 14.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected."

3 Correct the title.

--- END ---